

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
- - - - - X

NOVA CASUALTY COMPANY,

Plaintiffs,

- against -

OMEGA CONSTRUCTION CORP., et al.,

Defendants.

REPORT AND
RECOMMENDATION

CV 10-4015 (ENV)

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GO, United States Magistrate Judge:

This action has been referred to me for pretrial supervision. Plaintiff commenced this action on September 2, 2010. Because the defendants had not appeared and no appropriate return of service had been filed, by order dated February 16, 2011, I requested that plaintiff file a status report if they did not file a stipulation of dismissal by February 24, 2011. On February 22, 2011, plaintiff filed a motion, which was granted, for an extension of time until April 24, 2011 to file its affidavits of service of Summons and Complaint as to all defendants. After failing to file returns on the date requested by plaintiff, I directed plaintiff to file the returns by May 10, 2011. Plaintiff has failed to do so and did not submit an application for leave to extend the time for service.

I therefore respectfully recommend that this Court, sua sponte, dismiss this action without prejudice for failure to effectuate timely service within the 120 day period specified in Rule 4(m) of the Federal Rules of Civil Procedure.

Any objections to this Report and Recommendation must be filed

with the Clerk of the Court, with a copy to the undersigned and the Honorable Eric N. Vitaliano. Failure to file objections within the specified time waives the right to appeal. See 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b).

SO ORDERED.

Dated: Brooklyn, New York
May 16, 2011

/s/

MARILYN D. GO
UNITED STATES MAGISTRATE JUDGE